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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,757	12/11/2003	James Parks	TN-09667D	1995

7590

05/20/2005

Black & Decker Inc.
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EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,757

Applicant(s)

PARKS ET AL.

Examiner

Kenneth E Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26,28 and 47-52 is/are pending in the application.
- 4a) Of the above claim(s) 47-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26,28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 26 and 28 are objected to for incongruous titling.

As per MPEP 2173.02, a claim is given weight for all of the recitations in the body of the claim (See *In re Larsen*). This means that Applicant's claimed invention includes a rail and a workpiece supporting surface, which means that the invention is more than just a "fence assembly" as the title would suggest.

There are two possible ways to correct this;

A) remove the recitations of all non-fence assembly parts from the body of the claim.

B) change the claim title and transitional phrase to refer to a table saw.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiotani et al.'802 in view of Schnitzer '700.

Shiotani et al.'802, who shows a fence with all of the recited limitations including a handle (404), a rod (405), a first cam (left side of 406) at a first end of the rod, a second cam (right side of 406) at the second end of the rod, and first movable plate (left side of 409) and a second movable plate (right side of 409).

Shiotani's cams and plates are not separate from one another, and the cam does not directly contact the plate. However, this is a well known variation as shown by

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Schnitzer, who has separate cams (33,33) that directly contact separate plates (31,31).

It would have been obvious to one of ordinary skill in the art to have modified Shiotani by making the cams and plates be separate and directly contact one another, as taught by Schnitzer, since this is an art-recognized equivalent known for the same purpose.

See MPEP 2144.06.

In regards to claim 28, Shiotani's rod (405) is circular rather than square.

Examiner takes Official Notice that it is well known to make such a rod to have square portions, in order to insure co-rotation with joining parts. Since Applicant has not challenged this, it is known admitted prior art as per MPEP 2144.03(C). It would have been obvious to one of ordinary skill in the art to have modified Shiotani by making his rod have a square cross section, as is well known, in order to insure co-rotation with joining parts.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 571-272-4512, on Monday-Thursday, 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached at 571-272-4514. In lieu of mailing, it is encouraged that papers be faxed to 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov> or call the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kp
May 2, 2005



KENNETH E. PETERSON
PRIMARY EXAMINER